

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

Kevin Brathwaite,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 04-1542-GMS
	)	
Thomas Carroll, Warden, et al.,	)	Trial by Jury Demanded
	)	
Defendants.	)	

**STATE DEFENDANT'S MOTION TO DISMISS**

State Defendant by and through undersigned counsel, hereby moves this Honorable Court to enter an order dismissing Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12 (b) (6) for failure to state a claim upon which relief can be granted. In support of this motion, State defendant presents a *Memorandum of Points and Authorities in Support of Her Motion to Dismiss* filed simultaneously herewith.

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters  
Ophelia M. Waters, I.D. #3879  
Deputy Attorney General  
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Counsel for State Defendant

Dated: October 30, 2006

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FOR THE DISTRICT OF DELAWARE**

Kevin Brathwaite,	)	
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Plaintiff,	)	
	)	C.A. No. 04-1542-GMS
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	)	Trial by Jury Demanded
Thomas Carroll, Warden et al.,	)	
	)	
Defendants.	)	

**ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, *State Defendant Violet Dunn's Motion To Dismiss* in the above-captioned matter having been duly considered, and any opposition thereto, is granted; and,

**IT IS ORDERED** that judgment be and is hereby entered against Plaintiff and in favor of the State Defendant.

\_\_\_\_\_  
The Honorable Gregory M. Sleet, Judge  
United States District Court

***CERTIFICATE OF MAILING AND/OR DELIVERY***

The undersigned certifies that on October 30, 2006 she caused the attached *State Defendant Violet Dunn's Motion to Dismiss* to be delivered to the following persons in the form and manner indicated:

**NAME AND ADDRESS OF RECIPIENT(S):**

Kevin C. Brathwaite, Inmate  
SBI #315294  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

**MANNER OF DELIVERY:**

- ☐ One true copy by facsimile transmission to each recipient
- ☒ Two true copies by first class mail, postage prepaid, to each recipient
- ☐ Two true copies by Federal Express
- ☐ Two true copies by hand delivery to each recipient

/s/ Ophelia M. Waters  
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